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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

MORGAN STANLEY HIGH YIELD  
SECURITIES INC.; MORGAN STANLEY  
DEAN WITTER HIGH INCOME  
ADVANTAGE TRUST; MORGAN STANLEY  
DEAN WITTER HIGH INCOME  
ADVANTAGE TRUST II; MORGAN  
STANLEY DEAN WITTER HIGH INCOME  
ADVANTAGE TRUST III; MORGAN  
STANLEY VARIABLE INVESTMENT  
SERIES; MORGAN STANLEY DIVERSIFIED  
INCOME TRUST; and MORGAN STANLEY  
SELECT DIMENSIONS INVESTMENT  
SERIES,

CASE NO. 2:05-cv-01364-LDG-VCF

**DEFENDANTS' JOINT REQUEST TO  
VACATE SETTLEMENT CONFERENCE**

Plaintiff,

vs.

HANS JECKLIN; CHRISTIANE JECKLIN;  
GEORGE HAEBERLING; JOHN TIPTON;  
SWISS LEISURE GROUP AG; and JPC  
HOLDING AG,

Defendants.

Defendants Hans Jecklin, Christiane Jecklin, George Haeberling, John Tipton, Swiss Leisure Group AG and JPC Holding AG, by and through their respective counsel, hereby request that the Court vacate the pending Settlement Conference scheduled to commence at 10:00 a.m., June 17, 2013, pursuant to the Court's Order [Dkt #365]. For the following reasons, defendants do not believe that a settlement conference is logically feasible nor that such a settlement

1 conference would be productive at this point:

2 1. All but one of the four individual defendants, including the principals for the  
3 business entity defendants, reside in Switzerland and are unable to travel to the United States and  
4 Las Vegas on the proposed date. One of the Swiss defendants, George Haeberling, presently has  
5 pending a motion to dismiss for lack of personal jurisdiction based on, among other things, his  
6 limited contact with the forum in particular, and the United States in general [Dkt #237].

7 2. All parties have long-pending motions for summary judgment. Each of the  
8 defendants filed separate motions for summary judgment on February 17, 2010 [Dkt ## 231,  
9 236, and 239]. Plaintiffs moved for an extended period of time to file their own motion for  
10 summary judgment, which was granted on September 15, 2010 [Dkt # 311]. Briefing has been  
11 completed on all of the motions for summary judgment since March 31, 2011, more than two  
12 years ago. Defendant George Haeberling's renewed motion to dismiss for lack of personal  
13 jurisdiction was filed February 17, 2010 [Dkt #237]. Briefing on that motion was completed on  
14 June 23, 2010.

15 3. The parties have previously, on several occasions, discussed the potential for  
16 settlement. None of these discussions have resulted in positive movement towards resolution.  
17 Generally, none of the parties have been willing to compromise on terms during the pendency of  
18 the cross-motions for summary judgment. Nor, given the extremely large amount of damages  
19 sought, have the parties been within any reasonable range of resolution on monetary terms.  
20 Plaintiffs' claims are, in essence, claims to pierce the corporate veil and to hold the individual  
21 and corporate defendants responsible for a \$38,489,055 judgment already in place against Seven  
22 Circle Gaming Corporation entered in favor of the Morgan Stanley plaintiffs on December 18,  
23 2003, in the United States District Court for the Southern District of New York.

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1 For these reasons, including (i) the unavailability of the Swiss defendants, (ii) the  
2 pendency of the motions for summary judgment and motion to dismiss, and (iii) the inability to  
3 make settlement progress during prior settlement discussions, the defense parties respectfully  
4 request the Court vacate the settlement conference set for June 17, 2013, at 10:00 a.m.

5 DATED this 12<sup>th</sup> day of April 2013

6 BROWNSTEIN HYATT FARBER  
7 SCHRECK, LLP

DATED this 12<sup>th</sup> day of April 2013

GORDON SILVER

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18 DATED this 12<sup>th</sup> day of April 2013

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28 **IT IS SO ORDERED.**



29 **UNITED STATES MAGISTRATE JUDGE**  
30 **DATED:** 4-15-2013